

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**MOTOROLA SOLUTIONS INC.,  
Plaintiff**

**v.**

**HYTERA COMMUNICATIONS  
CORPORATION LTD., HYTERA  
AMERICA, INC., AND HYTERA  
COMMUNICATIONS AMERICA (WEST),  
INC.  
Defendants**

**CASE NO. 1:17-cv-1972  
COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR A JURY TRIAL**

**JUDGE JOHN ROBERT BLAKEY**

**DEFENDANTS' BRIEF IN SUPPORT OF THEIR  
UNOPPOSED MOTION FOR A MANDATORY STAY UNDER 28 U.S.C. § 1659**

Defendants Hytera Communications Corporation Ltd., Hytera America, Inc., and Hytera Communications America (West), Inc. (collectively “Hytera”) submit this brief in support of their motion to stay this case under 28 U.S.C. § 1659 until the issuance of a final determination in a related matter now pending before the United States International Trade Commission (“ITC”).

**I. INTRODUCTION**

Hytera requests a stay of all proceedings in this case to avoid piecemeal litigation and the specter of defending against Motorola Solutions Inc.’s infringement claims in two forums at the same time. Plaintiff filed suit in this Court on March 14, 2017, and in the ITC on March 29, 2017. Because the ITC has since instituted an investigation naming Hytera as respondents and Hytera is making this timely request, 28 U.S.C. § 1659(a) requires the Court to stay proceedings in this case. A stay of the proceedings would minimize the time and effort required for the Court and the litigants to resolve the dispute. Moreover, Motorola does not oppose a stay of this case pending final resolution of the ITC’s investigation.

## **II. STATEMENT OF FACTS**

Motorola filed this action on March 14, 2017, alleging infringement of U.S. Patent Nos. 8,116,284, 8,032,169, 7,369,869, 7,729,701, 8,279,991, 9,099,972, and 6,591,111. On March 29, 2017, Motorola filed a Complaint under Section 337 of The Tariff Act of 1930, as Amended, in the ITC, requesting that the ITC institute an investigation under Section 337 against Hytera. In its ITC Complaint, Motorola asserts infringement of the same seven patents at issue here. On May 3, 2017, the ITC instituted an investigation titled *Certain Two-Way Radio Equipment and Systems, Related Software and Components Thereof*, Inv. No. 337-TA-1053 (“the ITC Proceeding”), by publication of a Notice of Institution in the Federal Register. *See* Exhibit A.

## **III. LEGAL AUTHORITY**

Under Section 1659 of Title 28, upon the request of any party to a civil action who is also a respondent in an ITC investigation involving the parties in the civil action, the Court “shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.” 28 U.S.C. § 1659(a). This stay is mandatory and must be granted if made within thirty days from the later of: (1) the party being named a respondent in a proceeding before the ITC, or (2) the filing of the district court action. 28 U.S.C. § 1659(a)(1)-(2); *see also In re Princo*, 478 F.3d 1345, 1355 (Fed. Cir. 2007) (granting a writ of mandamus and directing a district court to stay proceedings pursuant to 28 U.S.C. § 1659(a) until the ITC proceeding became final).

## **IV. A STAY OF ALL PROCEEDINGS IN THIS COURT IS MANDATORY AND UNOPPOSED.**

The ITC Proceeding involves Hytera, as does this civil action. *See* Exhibit A at 20635. Plaintiff alleges infringement of the ’284, ’169, ’869, ’701, ’991, ’972, and ’111 patents in both

the ITC Proceeding and this civil action. Accordingly, the issues in this action are completely encompassed by the issues in the ITC Proceeding. On May 3, 2017, the Notice of Institution issued by the ITC was published in the Federal Register, thus commencing the ITC Proceeding. *See* Exhibit A. This motion has been filed within thirty days of Defendants being named as respondents in the ITC Proceeding. 19 C.F.R. § 210.10(b); *see* Exhibit A.

Counsel for Defendants communicated with Plaintiff's counsel on May 3 and 4, 2017, about Defendants' intention to file this motion. Plaintiff does not oppose this motion.

## **V. CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court stay this action under 28 U.S.C. § 1659(a). A proposed Consent Order granting this Motion is submitted herewith for the Court's convenience.

Dated: May 4, 2017

HYTERA COMMUNICATIONS  
CORPORATION LTD., HYTERA AMERICA,  
INC., and HYTERA COMMUNICATIONS  
AMERICA (West), Inc.

/s/ John T. Schriver

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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that on May 4, 2017, he caused the foregoing document to be electronically filed with the Clerk of the U.S. District Court, using the Court's CM/ECF system, which will send electronic notification to all parties who have appeared and are registered as CM/ECF participants in this matter. Parties may access this filing through the Court's CM/ECF system.

/s/ John T. Schriver